

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2313 OF 2022
WITH
INTERIM APPLICATION NO.783 OF 2026

Sarita Suryakant Varadkar	...Petitioner
<i>Versus</i>	
Vijay Shantaram Naik & Ors.	...Respondents

Mr. Bhavik Lalan i/b. Mr. Rajesh Chheda and Mr. Sagar Gala, for the Petitioner.
Mr. Prasad Dani, Senior Advocate a/w. Mr. Durgaprasad Sabnis, for the Respondents.

CORAM: MADHAV J. JAMDAR, J.
DATED : 29th JANUARY 2026

P. C.:

1. Heard Mr. Lalan, learned Counsel appearing for the Petitioner and Mr. Dani, learned Senior Counsel appearing for the Respondents.

2. By the present Writ Petition filed under Article 227 of the Constitution of India, the challenge is to the legality and validity of the order dated 13th December 2021 passed by the learned Appellate Bench of the Small Causes Court, Mumbai below Exhibit-

6 in Appeal No.76 of 2021 in R. A. E. Suit No.1047 of 2004. By the impugned order, the learned Appellate Bench of the Small Causes Court, Mumbai, directed the Petitioner to deposit the compensation of Rs.20,000/- per month from the date of the decree till disposal of the Appeal. The said direction has been passed in terms of the law laid down by the Supreme Court in the case of *Atma Ram Properties (P) Ltd. vs. Federal Motors (P) Ltd.*¹

3. It is the submission of Mr. Lalan, learned Counsel appearing for the Petitioner that the suit premises are only 100 sq.ft. The premises are residential and they are having no washroom facility. Learned Counsel submits that in the facts and circumstances, Rs.20,000/- per month fixed as rent/compensation by the learned Appellate Bench is excessive and exorbitant and reasonable compensation be fixed.

4. On the other hand, Mr. Dani, learned Senior Counsel appearing for the Respondents, supports the impugned order. He submits that the premises are not 100 sq.ft., but rather 140 sq.ft. of carpet area and 169 sq.ft. of built-up area. He points out Valuation

1 (2005) 1 SCC 705

Report dated 21st July 2021 which has been produced before the learned Appellate Bench of the Small Causes Court. As per the said report, the reasonable rent/compensation of the suit premises is mentioned as Rs.33,212.38 per month. He therefore, submits that considering the material on record, the learned Appellate Court of the Small Causes Court, Mumbai has fixed a reasonable compensation.

5. Perusal of the record shows that the premises in question is Room No.1 at Ground Floor of Building known as 'Shri Sai Shubh Vijay' on plot bearing C.S. No.51 of Girgaum Division, 'D' Ward, situated at 43, Mangalwadi, Girgaum, Mumbai- 400 004. The carpet area of the suit premises is about 140 sq.ft.. Admittedly, the suit premises do not have washroom facility and the said facility is a common facility. The photograph of the suit premises is produced at page 119.

6. It is an admitted position that the building where the suit premises are situated is about 100 years old and the construction is very old and even basic amenities are not available in the suit

premises. It is an admitted position that washroom is not provided and common washroom is there.

7. Considering the facts and circumstances, the Valuation Report produced by the Respondent-Landlord concluding that a monthly rent or compensation of Rs. 33,212.38 is unreasonable as also compensation fixed by the learned Appellate Court as Rs.20,000/- per month is also exorbitant considering overall circumstances, for the premises in question.

8. Thus, in the facts and circumstances, Rs.13,000/- per month is a reasonable compensation, which can be directed to be deposited before the learned Small Causes Court, Mumbai in terms of the law laid down in the case of *Atma Ram Properties (P) Ltd.* (supra).

9. At this stage, Mr. Dani, learned Senior Counsel submits that an amount of Rs.4,53,000/- are the arrears even considering Rs.13,000/- per month as the compensation. The said arrears be deposited on or before 27th February 2026 before the learned Small Causes Court, Mumbai. It is made very clear that if the said arrears

are not deposited on or before 27th February 2026, then, the order dated 7th January 2026 passed by the learned Judge, Small Causes Court, Mumbai below Exhibit-1 in Execution Application No.326 of 2025 in R.A.E. Suit No.1047 of 2004 be executed forthwith. However, if arrears of compensation are paid within time and the said amount of Rs.13,000/- per month is deposited on or before 10th day of each succeeding month, till disposal of the Appeal, then, the Petitioner shall not be evicted from the suit premises.

10. At this stage, Mr. Dani, learned Senior Counsel appearing for the Respondents submits that the Appeal is of the year 2021 and the same is listed for final hearing. He submits that the decree has been passed *inter alia* on the ground of bona fide requirement and therefore, the learned Appellate Court be directed to dispose of the Appeal in time bound manner.

11. In the facts and circumstances and as one of the ground is bona fide requirement, learned Appellate Bench of the Small Causes Court, Mumbai is requested to dispose of Appeal No.76 of 2021 expeditiously on or before 28th February 2027.

12. Accordingly, the Writ Petition is disposed of in above terms with no order as to costs.

13. In view of the disposal of the Writ Petition, nothing survives in the Interim Application and the same is also disposed of.

[MADHAV J. JAMDAR, J.]